

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of SOUTHERN CALIFORNIA WATER COMPANY (U 133-W),  
for an Order pursuant to Public Utilities Code  
Section 851 approving a Reallocation  
Agreement with the City of Folsom, as directed  
by D.04-04-069.

Application 04-07-018  
(Filed July 8, 2004)

**ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING**

**Summary**

This ruling sets forth the scope, schedule, category, assignment of the principal hearing officer and ex parte communications rules for this proceeding, pursuant to Rule 6.3 of the Commission's Rules of Practice and Procedure (Rules).

**Background**

In Decision (D.) 04-03-069, the Commission found that Southern California Water Company (SCWC) violated Public Utilities Code Section 851<sup>1</sup> when it failed to seek the Commission's approval for its 1994 lease of water rights to the City of Folsom (Folsom). For that reason, the lease was voided; a penalty of \$1,095,000 was assessed, of which \$915,000 was suspended; and SCWC was ordered to credit ratepayers with 70% of the total lease revenues accrued from

---

<sup>1</sup> Unless indicated otherwise, all statutory citations are to the Public Utilities Code.

the inception of the lease through the effective date of the decision, plus 7% interest. The Commission also determined that while Folsom acted in “good faith for value,” Folsom was entitled only to retrospective protection of its lease of water rights, pending further record development on the issue of Folsom’s prospective rights under the voided lease. Folsom then filed a petition to modify D.04-03-039, indicating that serious and immediate effects had occurred because the Commission did not preserve its prospective rights under the lease. In D.04-04-069, after a review of new information provided by Folsom, the Commission concluded that § 851 protects Folsom’s acquired interest in the water both with respect to the past and to the future, notwithstanding the voiding of the lease as to SCWC. The Commission also ordered SCWC to file a § 851 application for the leased water rights agreement with Folsom, to address how SCWC will serve its customers without water leased to Folsom as well as the ratemaking treatment of future revenues under the Folsom lease.

SCWC filed its application on July 8, 2004.<sup>2</sup> A protest by the Office of Ratepayer Advocates (ORA) was filed on August 16, 2004. At that time, ORA also filed a motion to consolidate this proceeding with A.03-10-057, in which SCWC’s request to amortize its water litigation memorandum account is being addressed. Southern California Water Company’s opposition to ORA’s motion to consolidate was filed on September 15, 2004.

A Prehearing Conference (PHC) was held on October 14, 2004. At that time, since the procedural schedule in A.03-10-057 had already been set, a delay could potentially harm the company, and the issues in A.03-10-057 and

---

<sup>2</sup> The Executive Director twice extended the filing date from May 27, 2004, as specified in D.04-04-069, to July 8, 2004.

A.04-07-018 are not interrelated, ORA's motion to consolidate was denied. The scope of this proceeding, the procedural schedule and the relationship to the ongoing rulemaking on the allocation of gain on sales were then discussed.

### **Scope of Proceeding**

The scope of this proceeding is defined by Ordering Paragraph 2 of D.04-04-069, which directed parties in this application proceeding to address the following topics:

1. How SCWC will obtain water sufficient to serve its customer base without the 5,000 acre feet per year leased to Folsom?
2. The proper accounting and ratemaking treatment of future lease revenues under the Folsom lease.
3. Any appropriate measures to ensure ratepayers are not adversely affected by the lease of water rights to Folsom.

The scope encompasses both short-term and long-term water needs and sources of supply for the Arden-Cordova Customer Service Area, including the effects of groundwater contamination on the water system and agreements with Aerojet and the County of Sacramento regarding future sources of water. Rulemaking (R.) 04-09-003 is addressing the allocation of gains on sale by energy utilities, incumbent local telecommunications carriers and water companies. While specifically addressing asset sales, the rulemaking may establish policies and guidelines that impacts the determination of the proper ratemaking treatment of future lease revenues in this proceeding. For that reason, a decision in this proceeding will not be issued until the applicability of any policies or guidelines resulting from a decision in R.04-09-003, to the ratemaking issues in this proceeding, can be determined and, if appropriate, reflected. Depending on the timing of the rulemaking decision, parties in this proceeding will have the opportunity to address such applicability, either in briefs or supplemental briefs.

Issues related to sufficiency of water supply and measures to ensure ratepayers are not adversely affected by the lease are important and will be resolved by an interim decision, if necessary.

### **Schedule**

The schedule for this proceeding is as follows:

<b><u>Date</u></b>	<b><u>Activity</u></b>
November 23, 2004	SCWC issues its direct testimony.
March 8, 2005	ORA and other interested parties issue testimony.
April 8, 2005	Parties issue rebuttal to the March 8, 2005 testimony.
April 26 – 28, 2005	Evidentiary hearing held, as needed.
May 31, 2005	Parties file opening briefs.
June 20, 2005	Parties file reply briefs.
To be Determined	If appropriate, parties file supplemental briefs on the applicability of the forthcoming decision in R.04-09-003 to this proceeding.

The goal is to resolve this matter as soon as possible after it is submitted. However, in no event will resolution exceed 18 months from the date of this scoping memo, pursuant to the requirements of § 1701.5.

### **Category of Proceeding**

This ruling confirms the Commission's preliminary finding in Resolution ALJ 176-3137, dated August 19, 2004, that this proceeding is a ratesetting proceeding as described in Rule 5(c).

**Assignment of Principal Hearing Officer**

ALJ Fukutome will act as the principal hearing officer in this proceeding pursuant to Rule 5(l).

**Ex Parte Communications**

Parties shall observe and comply with the Commission's ex parte communications rules set forth in Rules 7 and 7.1.

**IT IS RULED** that:

1. The scope and schedule for this proceeding are set forth in the body of this ruling.
2. Evidentiary hearing in the proceeding will begin at 10 a.m. on April 26, 2005, and continue through April 28, 2005, as needed, in the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California.
3. This ruling confirms that this proceeding is a ratesetting proceeding for the purpose of Article 2.5.
4. ALJ Fukutome is the principal hearing officer in this proceeding.
5. Parties shall observe and comply with the ex parte communications rules set forth in Rules 7 and 7.1.

Dated November 2, 2004, at San Francisco, California.

/s/ MICHAEL R. PEEVEY  
Michael R. Peevey  
Assigned Commissioner

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Assigned Commissioner's Scoping Memo and Ruling on all parties of record in this proceeding or their attorneys of record.

Dated November 2, 2004, at San Francisco, California.

/s/ TERESITA C. GALLARDO  
Teresita C. Gallardo

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

\*\*\*\*\*

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.